

**MYERS**

**EXHIBIT B**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LAUREL PARK COMMUNITY, LLC, a  
Washington limited liability  
company; TUMWATER ESTATES  
INVESTORS, a California limited  
partnership; VELKOMMEN MOBILE  
PARK, LLC, a Washington limited  
liability company; and  
MANUFACTURED HOUSING COMMUNITIES  
OF WASHINGTON, a Washington  
non-profit corporation,

Plaintiffs,

vs.

CITY OF TUMWATER, a municipal  
corporation,

Defendant.

No. C09-5312 BHS

COPY

DEPOSITION UPON ORAL EXAMINATION OF

WILLIAM SCHMICKER

February 4, 2010  
Tumwater, Washington

Taken Before:

Connie Church, CCR #2555, RPR, CRR  
Certified Court Reporter  
of

CAPITOL PACIFIC REPORTING, INC.  
2401 Bristol Court SW, Suite A-104  
Olympia, WA 98502

Tel (360) 352-2054 or (800) 407-0148 Fax (360) 705-6539

www.capitolpacificreporting.com  
admin@capitolpacificreporting.com



WILLIAM SCHMICKER - By Mr. Myers

1 You know. You've seen times when the economy, you know,  
2 does get bad, that mobile home parks get vacancies. You  
3 know. Things have been very good around here. But you  
4 know, they're out there.

5 Q Okay. Other than the 2006 appraisal that was provided to  
6 us, have you had any other appraisals done on the  
7 property?

8 A You know, back when it was refinanced the first time,  
9 there was probably one done then. But that was 15 years  
10 ago, something like that.

11 Q Not something you have a copy of?

12 A No.

13 Q Could you give me a description of the Tumwater Mobile  
14 Estates park, size, setting, how many lots are there?

15 A Okay. I think we have 115 spaces. Could be 116. Give  
16 one to the manager. And I can't remember if we have 115  
17 that they pay rent on and the manager's doesn't. So 115  
18 or 116. And the park was built in two phases starting in  
19 about, geez, 1964 the first phase. And then the second  
20 phase was probably done maybe six or seven years later,  
21 so maybe early seventies. And it could be . . . That's  
22 a guesstimate. It could be 10 years older than that.  
23 Could be as much as 10 years older than that.

24 Q Sure.

25 A It's always hard to pin those things down. You know.

WILLIAM SCHMICKER - By Mr. Myers

1 But that's my recollection.

2 Q Okay. How many acres is there?

3 A Well, there's some discussion about that. I'm trying to  
4 find - if I can find a survey. I was looking for a  
5 survey. Because I said 24. And that's my recollection  
6 is 24. But I've seen - I think the city had it appraised  
7 and it was - the appraiser there said 22.4. So I don't  
8 know the exact acreage. But my recollection is 24.

9 Q Any reason why you would recall 24?

10 A Just it's what I remember. You know. Yeah.

11 Q Okay. Tell me about the environmental features on that  
12 property. Are there any wetlands?

13 A Yeah. There's a little lake in the back center of the  
14 park, which is an amenity, you know, that people love.  
15 You know. The home sites around the lake are premium.  
16 And so they are quite easy to rent. And so it's a nice  
17 amenity that the park has. We also have a clubhouse and  
18 used to have a shuffle board court. But nobody was using  
19 it so it's kind of, you know, not in use anymore, still  
20 there, but I don't think anybody's played it for years  
21 now.

22 [Q Along the western edge of the property, is there a  
23 wetland adjacent to the western --

24 A There is to . . . I don't know what direction, you know,  
25 that is. But if you say it's west, I'll take your word

WILLIAM SCHMICKER - By Mr. Myers

1       for it. There is at the back . . . In the back of the  
2       park, there is a little wetland there that is adjacent to  
3       the property.]

4       Q   And what are the land uses surrounding the mobile home  
5       park?

6       A   Well, there is --

7       Q   Let me break that down first and ask you north of Trosper  
8       Road.

9       A   Okay.

10      Q   The park sits north of Trosper; correct?

11      A   The park sits north of Trosper Road.

12      Q   Let me ask you then to describe what the land uses are  
13      surrounding the park on the north side of Trosper.

14      A   Okay. On the north side of Trosper, there - well,  
15      there's a house right next door. And then, you know, I  
16      [forget what's right next to it, but then there's some  
17      commercial farther to the east. There is commercial also  
18      on the south side of Trosper, a new - couple of new ]  
19      shopping centers that have been built in there. Across -  
20      directly across the street is a new seniors housing  
21      project. To the west there are new apartments that just  
22      opened up in January of this past year.

23               And you know, when you asked me to describe the  
24      park, I - you know, I probably should add some additional  
25      descriptions because I was just - you know, I didn't

WILLIAM SCHMICKER - By Mr. Myers

1 A I don't. And because of the thought that I just shared  
2 with you, if the city sent me a thing and said, "Well,  
3 we're going to rezone it multifamily, you know, high  
4 density multifamily," I probably would have, you know,  
5 not raised a ruckus about that, fuss about that.

6 Q Let me ask you about how your mobile home park fits in  
7 with the surrounding neighborhood. Do you think that the  
8 use of a mobile home park is in any way detrimental to  
9 the surrounding neighborhood?

10 [ A Not at the present time. I mean, you know, I do have ]  
11 some homes in there that are ugly. If you drove around,  
12 you know, "Boy, that's one that needs to be replaced." I  
13 mean and I've got . . . . I mean of the perhaps 24 maybe,  
14 25 homes in the old section - I don't know exactly what  
15 the number is - you know, you're going to see - there's  
16 at least a half a dozen of them that are unattractive  
17 right now, today.

18 Q So in answer to the question, you think some of them are  
19 not aesthetically consistent with the surrounding  
20 neighborhood?

21 A Yeah. I'm trying to, you know, not allow that to be the  
22 case by replacing those homes when I have an opportunity,  
23 as I mentioned.

24 Q Do you think that having these mobile homes adversely  
25 impacts the surrounding property values?

WILLIAM SCHMICKER - By Mr. Myers

1 A You know, I really don't know.

2 [Q With regard to manufactured housing parks, do you believe  
3 that that is a form of affordable housing?

4 A Yes.

5 Q And do you believe that maintaining affordable housing is  
6 a legitimate public goal?

7 A Yes. ]

8 Q Let me ask you about the space rent that you charge on  
9 the property. What are the current space rents at  
10 Tumwater Mobile Estates? And before we do that, why  
11 don't we have this marked as an exhibit.

12 (Deposition Exhibit No. 1 marked  
13 for identification.)

14 Q (BY MR. MYERS) This is Exhibit 1, which is the rent roll  
15 that you provided.

16 A At the time that that rent roll was provided, average  
17 rent was about \$437, which includes all of our utilities,  
18 charges. The numbers you see there are just the basic  
19 space rent. And we charge for water, sewer, trash, cable  
20 TV and a - there's a storm sewer charge.

21 Q So the basic rental rate would be under the column  
22 "Actual Rate"?

23 A Yes. I think so. Let me look at it. You know, I think  
24 you should disregard the "Standard Rate" column because I  
25 don't think that is an applicable column. The

WILLIAM SCHMICKER - By Mr. Myers

1 "Actual Rate" is the applicable column.

2 Q And that's just the space rent; correct?

3 A Correct.

4 Q And on the first page of this, there's a handwritten  
5 notation says, "#12 Rent Roll," and it's dated - I  
6 believe it's 10/09.

7 A Yeah. I think that's '09 as well.

8 Q And then at the bottom says, "Printed 10/31/2009." Is it  
9 your understanding that these were the space rents  
10 charged in October 2009?

11 A I do believe so. You see the date on there also in all  
12 of that where it says, "Next assessment 11/01." So I  
13 believe that would be the rate that was charged for the  
14 month of October that you're seeing there.

15 Q So this rent reflects the month for October 2009, which  
16 is after the adoption of the mobile home park zoning  
17 ordinance; correct?

18 A Correct. What was the date that the zoning ordinance  
19 was --

20 Q I tell you what. Let's go ahead and have that marked.

21 (Deposition Exhibit No. 2 marked  
22 for identification.)

23 Q (BY MR. MYERS) That's a copy of the ordinance, in case we  
24 need to refer to it. The ordinance was adopted on  
25 February 17, 2009 - and that's on the next to last page -



WILLIAM SCHMICKER - By Mr. Myers

1 and actually became effective on March 23rd, 2009.

2 A What was the second date?

3 Q March 23rd, 2009. They're both on the next to last page.

4 Do you recall what the rent was before the adoption of  
5 the mobile home park zoning?

6 A There was no change between the February and March dates  
7 and the October date.

8 Q Okay. Do you recall when the last previous increase  
9 before October 2009 was?

10 A I believe it was July 1st, 2008.

11 Q And have the rents been increased since October 2009?

12 [A They just went up January 1.]

13 [Q January 1. What's the current space rent?

14 A Well, we increased everybody \$20.

15 Q So everybody got a \$20 bump?

16 A Correct.

17 Q What was the purpose of the rental increase?

18 A Inflationary adjustment.]

19 Q Any extraordinary costs that had to be covered by that?

20 A I don't recall.

21 Q As I look this over, I don't see any spaces which are  
22 listed as vacant. Is Tumwater Mobile Home Park currently  
23 full?

24 A Pretty close. We have one lot that we've got a dispute  
25 working with the heir of the prior tenant, who's

WILLIAM SCHMICKER - By Mr. Myers

1           deceased.

2           Q     And which lot is that?

3           A     27. 26. Unfortunately they're kind of clipped off,  
4                 space numbers.

5           Q     I take it that's the one with Burton that shows an  
6                 outstanding rent balance --

7           A     Probably so.

8           Q     -- on Exhibit Number 1.

9           A     Probably so.

10          Q     Okay. Have you historically had any periods of time when  
11                 there were high vacancies at Tumwater Mobile Estates?

12          A     No.

13          Q     Okay. And did Tumwater Mobile Estates make a profit in  
14                 2009?

15          A     Yes.

16          Q     Okay. Has it made a profit in the years preceding 2009?

17          A     Yes. ]

18          Q     What was . . . Do you know what the amount of profit was  
19                 in 2009?

20          A     No, not without . . . No.

21                                 (Deposition Exhibit No. 3 marked  
22                                 for identification.)

23          Q     (BY MR. MYERS) This is a copy of income statements and  
24                 balance sheets that were provided to the City in the  
25                 course of discovery. And it covers the periods from 2006

WILLIAM SCHMICKER - By Mr. Myers

1 A The - as you can see, below the net operating income,  
2 there are some other expenses that are written off  
3 against net operating income. Some of those are noncash  
4 expenses, amortization and depreciation. But interest  
5 expense and management fees, asset management fees, are  
6 other expenses that are taken off of the income to - the  
7 net operating income to get to the net income.

8 Q Okay. Is it normal that buyers look at the net operating  
9 income as a basis to calculate the value of a property?

10 A Yes, it is.

11 Q But the ultimate profit is down on what - we'll call it  
12 the bottom line?

13 A Right.

14 Q Sorry. I couldn't resist that.

15 A I know.

16 [Q So in the statement on Bates page 380, it shows that  
17 there was a profit of \$151,199 in the prior year, and  
18 that had increased to \$167,119 in the current year. You  
19 see that?

20 A Mm-hmm. ]

21 Q Is it your understanding that the prior year figures are  
22 based on the first three quarters of 2008?

23 A It is.

24 Q So we're comparing apples to apples?

25 A Apples to apples.

WILLIAM SCHMICKER - By Mr. Myers

1 Q And then back at the back, actually midway through,  
2 there's a 2008 income statement.

3 A Yes.

4 Q And that again compares the net income or the profit  
5 between the current year and the prior year, which would  
6 be 2007.

7 A Correct.

8 Q And there was an increase from 184 thousand to 202  
9 thousand; is that right?

10 A Yes.

11 Q So that would represent an increase in profit from 2007  
12 to 2008?

13 A Yes.

14 Q Just want to make sure I'm understanding these documents  
15 correctly. Has there been any history of operational  
16 problems or issues in maintaining the park that have been  
17 a particular concern to you, as the owner?

18 A Yes. You know, when you have an old park, as this park,  
19 you know, is now being - would be considered an older, if  
20 not old, park, you know, you have your utility systems.  
21 And just like a city has utility systems, you're  
22 concerned about things. And you know, we've had some  
23 problems with storm drainage pipes and we've had problems  
24 with sewer pipes that we've had to bring contractors in  
25 and do replacements.

WILLIAM SCHMICKER - By Mr. Myers

1 Q Your property is connected to city sewer?

2 A Yes, it is.

3 Q And the sewer pipes that are throughout your mobile home  
4 park then, are those city lines or are those private  
5 lines?

6 A Private lines.

7 Q So the city - you connect to the city out on Trosper  
8 Road?

9 A Yeah. I think we actually connect a couple places. You  
10 know. I'd have to look at the plans to, you know,  
11 recall. But you know, there may be a connection near the  
12 Miller - through that Miller routing.

13 Q Okay.

14 A And there may be a connection out on Trosper as well.

15 Q Okay.

16 A But I can't recall.

17 Q But you're responsible for any of the maintenance of any  
18 of the pipes that go through the park?

19 A Yes.

20 Q Do you know when that connection with sewer was made?

21 A (Shakes head.)

22 Q Has there always been a sewer connection?

23 A As long as I've owned it, yeah.

24 Q Have you had any problems with soil stability in the  
25 park?

WILLIAM SCHMICKER - By Mr. Myers

1 A Well, when we had the earthquake.

2 Q Tell me what happened during the earthquake.

3 [A When the earthquake happened, there was a section over by  
4 where our lake is that the road failed and slipped down  
5 into the water, similar to what happened in the city of  
6 Olympia along their lake boulevard over there. And when  
7 that happened, we - unfortunately it was - a cameraman  
8 was creative with his angle. He could make it look very  
9 dramatic. And he did. And we made newspapers throughout  
10 the nation. There was one in *USA Today*, et cetera.

11 So it's a well-known fact that we did have some  
12 sliding that occurred there. And when it happened, I got  
13 after it right away and had it fixed within 60 or 90  
14 days. And I'll also share with you that it was a cost  
15 probably of around 130, 150 thousand dollars.

16 (Deposition Exhibit No. 4 & 5  
17 marked for identification.) ]

18 Q (BY MR. MYERS) Are either one of those the photographs  
19 that you recall from *USA Today*?

20 A Close, but not quite.

21 Q Close, but not quite. Okay. These are some photographs  
22 that the city provided to us that were provided in the  
23 course of discovery. My question to you is: Are those  
24 fair and accurate depictions of the sink hole that  
25 appeared after the earthquake?

WILLIAM SCHMICKER - By Mr. Myers

1 A Well, it has been, you know, more or less minimal impact  
2 at this point in time.

3 Q Okay. Let me ask you whether or not it has imposed any  
4 restrictions on your ability to raise space rents.

5 A It has not.

6 [Q Has it imposed any direct costs that you have had to pay  
7 out because of the adoption of this ordinance?

8 A Offhand at this moment, I can't think of any.

9 Q Have you had to pay any fees to anyone as a result of  
10 this ordinance, other than your lawyers?

11 A No. ]

12 Q Is there anything that you are currently doing in  
13 operating Tumwater Mobile Estates mobile home park that  
14 you cannot do because of the adoption of the mobile home  
15 park zoning ordinance?

16 A Well, I can't build a shopping center on it.

17 Q But you're not currently building a shopping center on  
18 it?

19 A No. No.

20 [Q I'm asking is there anything that you are currently using  
21 the property for that you no longer can use the property  
22 for after adoption of the ordinance?

23 A Not that I'm currently using it for. ]

24 Q Have you ever put the property up for sale?

25 A No.

WILLIAM SCHMICKER - By Mr. Myers

1 impact on that.

2 Q Do you look at what uses are physically possible on a  
3 particular piece of property?

4 A Sure.

5 Q And do you look at what uses might be economically  
6 unfeasible or economically feasible in order to determine  
7 whether it's the highest and best use?

8 A Of course. You have to.

9 Q Let me have you turn to Bates page 40, which is toward  
10 the end, which is the section that discusses present use,  
11 highest and best use.

12 A Okay.

13 Q As I look on the next page, Bates page 41, the last  
14 sentence there states that, "Considering the subject's  
15 overall location is a mixture of apartments, manufactured  
16 home parks and condominiums, would be one of the most  
17 productive and perhaps maximally productive uses of the  
18 subject site, 'if vacant,' may be a development  
19 consisting of manufactured home sites."

20 Is it your understanding that the appraiser here is  
21 saying that a manufactured home park may be the maximally  
22 productive use of the property if it were already vacant?

23 A I was looking for it while you were reading it. Let me  
24 take a second and read it. Okay?

25 Q Sure.



WILLIAM SCHMICKER - By Mr. Myers

1 A Well, I don't think it's very well written. And he says  
2 a full feasibility study would be required. And I don't  
3 think he would purport that this is such a study. He's  
4 just, you know, putting some terms in there. And so, you  
5 know, I would personally take exception with, you know,  
6 the language he has in here.

7 Q What would you take - specifically would you take  
8 exception with?

9 A Well, he doesn't mention the fact that there's commercial  
10 property in the area.

11 Q Okay.

12 A You know. So I think that's . . . You know. How can  
13 you miss that?

14 Q You see under --

15 A I don't think he probably ever thought anybody was really  
16 going to be reading that paragraph with great interest  
17 so . . .

18 [Q] Let me refer you then to the previous page under "Legally  
19 Permissible Use," where he describes the site being  
20 split-zoned, multifamily high and single family medium  
21 residential. Do you know if those zones allow commercial  
22 development?

23 [A] You know, I'm not familiar with your zoning ordinances,  
24 you know, to the degree that I would need to be. But  
25 it's my belief from observation in the past and

WILLIAM SCHMICKER - By Mr. Myers

1 experience that municipalities are willing to rezone  
2 multifamily land for commercial land because of the tax -  
3 sales tax issue.]

4 Q Is it your experience that they're willing to rezone  
5 mobile home parks as commercial property in order to get  
6 that sales tax?

7 A It is. I've seen it done, yes. But I will confess to  
8 you I've seen it resisted. Okay.]]

9 Q And then on Bates page 42, under "Subject Site 'As  
10 Improved,'" Mr. Robinson's appraisal says that, "The  
11 remaining option, to remain as is, is considered the best  
12 option."

13 And this is under "Physically Possible Use." Do you  
14 see where he says that?

15 A "The remaining option, to remain as is, is considered the  
16 best option." Okay.

17 Q Yes. Do you agree or disagree with that statement?

18 A At the present time, I agree.

19 Q Okay. And do you agree with his conclusion that as  
20 improved, the highest and best use of the Tumwater Mobile  
21 Estates property is as a manufactured home park?

22 A At the present time, you know, with - without the  
23 presence of this ordinance, I would have concurred with  
24 that.

25 [Q So let me then ask you: Before the city adopted that

WILLIAM SCHMICKER - By Mr. Myers

1 ordinance, is it your opinion that the highest and best  
2 use of the property was as a mobile home park?

3 A Yes.

4 Q And after the adoption of the mobile home park ordinance,  
5 do you have any opinion as to what the highest and best  
6 use of the property is?

7 A Well, if the ordinance stands, I won't have much of a  
8 choice, will I? That's what this is all about, freedom  
9 of choice and, you know, the ability to change when  
10 change is necessary.

11 Right now I'm able to - in the front part of my  
12 park, the older part, I'm able to deal with it. But it  
13 isn't easy. And it may not be possible at some point in  
14 time. And when that happens, then it's time to start  
15 thinking about, "Okay. When and how am I going to go  
16 about changing this use?"

17 Q Okay. At any time, do you believe that the Tumwater  
18 Mobile Estates property has been worth \$26 million?

19 A Well, if I were to think to myself, you know, "I'm not  
20 getting any - I'm not getting any younger. I want to,  
21 you know, leave my kids with as much as I possibly can."  
22 Therefore, I need to look at my - all my assets,  
23 including the Tumwater Mobile Estates and say, "Okay.  
24 How can I maximize the value of this property? What can  
25 I do to maximize the value of this property?"

WILLIAM SCHMICKER - By Mr. Myers

1 That's . . . You know. That's an exercise that I could  
2 go through with every single property.

3 And I haven't done that because I'm fat and happy.  
4 You know. I'm collecting rent. You know. Life is good.  
5 You know. Why do that? But all of a sudden, say, "Okay.  
6 Life is short. I want to leave my kids with a bunch. So  
7 now I'm going to, you know, try to figure out what the  
8 highest and best use of this property is."

9 And then whenever I am of that mind-set, then I can  
10 start looking to potential of trying to generate that  
11 kind of value.

12 Q And that would depend on the highest and best use  
13 changing at some point in the future?

14 A (Based on my investment objective. My investment  
15 objective today is to collect dividends off this)  
16 property. If my investment objective changes and it is,  
17 "Let's maximize the value of this asset and dispose of  
18 it," okay, then I go thinking that way. And that's when  
19 all of a sudden I say, "Okay. The value of this  
20 property? \$26 million." 26, 27.]

21 (Deposition Exhibit No. 8 marked  
22 for identification.)

23 Q (BY MR. MYERS) Exhibit 8 is a document - a portion of the  
24 plaintiffs' initial disclosures. And it discusses and  
25 discloses calculations as far as the damages to Tumwater

WILLIAM SCHMICKER - By Mr. Myers

1 A No.

2 Q Have you ever prepared any site plans showing seven acres  
3 being used commercially and 17 acres being used as high  
4 density residential?

5 A No.

6 Q Where did those numbers come from?

7 A Which numbers?

8 Q The numbers seven acres of commercial land and 17 acres  
9 of high density residential. Where did those numbers  
10 come from?

11 A Well, those are - those are approximations of an  
12 allocation of the acreage on the Trosper Road front  
13 portion of the park, where the older section is or the  
14 older homes are. And I . . . You know. Since I haven't  
15 got a survey and everything, all I could do is guess.  
16 And so that's a guess.

17 Q Okay. Do you know whether it would be legally  
18 permissible under the preexisting zoning to develop seven  
19 acres of the property as commercial?

20 MR. BRANSON: I'm going to object. Asked and  
21 answered. It calls for a legal conclusion.

22 Q (BY MR. MYERS) You can answer the question.

23 A Well, as I mentioned before, I think the city would be  
24 receptive to it.

25 [Q But under the prior zoning, before the city adopted the

WILLIAM SCHMICKER - By Mr. Myers

1 mobile home park zoning, could you have developed seven  
2 acres as commercial?

3 A No, not without seeking their approval.]

4 Q Okay. Let me ask you about some other items in this. In  
5 the commercial land, you value seven acres at \$20 per  
6 square foot. Where did the \$20 per square foot come  
7 from?

8 A Well, unfortunately, you know, this had to be put  
9 together fairly quickly. And so I had to rely on my  
10 knowledge of land values that are frequently associated  
11 with commercial developments. And based on that, I  
12 estimated that \$20 a square foot would be a fair  
13 approximation.

14 Q Tell me what your experience is in valuing commercial  
15 property by the square foot.

16 A Well, I've developed various kinds of real estate and  
17 I've rezoned land that was - had a wetland issue flowing  
18 through it, as a matter of fact, now that I'm thinking  
19 about it, and converted some - geez, I forget what it was  
20 zoned for before, but probably single family into  
21 commercial zoning and multifamily housing and sold the  
22 two pieces off. We're talking about maximizing value. I  
23 did just what we're talking about with a piece of  
24 property in Martinez, California. This was in 1972 or  
25 '73.

WILLIAM SCHMICKER - By Mr. Myers

1           arguably at that point in time, it had that value. Now  
2           that right's been taken away. So you know, what happened  
3           to it?

4       Q    Let me go back to that statement. Is it your opinion  
5           that before the city passed the ordinance, your property  
6           had a fair market value of \$26 million?

7       A    Highest and best use potential value of \$26 million.

8       Q    But you wouldn't have a willing buyer actually want to  
9           pay you \$26 million, would you?

10      A    Nobody was offering me that amount of money or I might  
11           have been a seller.

12      Q    Because you had not built out the property.

13      A    I hadn't done any of the things that would need to be  
14           done to realize that value.

15      Q    Had you ever applied for permits to do any of that type  
16           of development to the City of Tumwater?

17      [A    Not to the City of Tumwater.]

18      Q    Let's go back to the next page, which is page 4 of the  
19           initial disclosures. At the top of the page, there's a  
20           statement that says, "The value . . ." It's the next  
21           page.

22      A    Oh.

23      Q    "The value of Tumwater Estates at \$45,000 per space  
24           equals \$5,175,000." Is that your opinion of what the  
25           property is worth as a mobile home park?

WILLIAM SCHMICKER - By Mr. Myers

1 true and correct before you signed it?

2 A Yes.

3 Q And that's your signature on page 3?

4 A It is.

5 Q I'd like to direct you to page 1. At the very bottom,  
6 line 24, it says that you and your partners bought the  
7 park in reliance on the zoning permitted at the time.  
8 That time was 1978?

9 A Correct.

10 Q The next sentence says, "The property was then zoned  
11 multifamily high density residential." Is that correct?

12 A Well, as I've stated here, you know, it might have been  
13 high density residential or it might have been a  
14 combination of high density residential and commercial.  
15 If it were high density residential, in my thinking, I  
16 wasn't concerned about being able to convert the front  
17 portion to commercial because of the arguments that I've  
18 put forth here earlier that the city would be receptive  
19 to. And so I allowed it to go as stated in here, you  
20 know, because of that reason.

21 [Q Okay. Beginning at line 5 of page 2, there is a  
22 statement beginning, "We anticipated using our property  
23 as a mobile home park so long as that use was  
24 economically viable." And then it continues to say, "We  
25 expected to be able to turn to other economically



WILLIAM SCHMICKER - By Mr. Myers

1 productive uses at our discretion or to sell it if it  
2 became economically unviable."

3 First question is: Today is use of the property as  
4 a mobile home park economically viable?

5 A You're asking me that?

6 Q Yes.

7 A Yes. It is economically viable at this time.

8 Q And then it says your plan was to "hold onto the property  
9 until the highest and best use of the property changed."

10 [ Can you define for me when you expect that the  
11 highest and best use of the property will change?

12 A Well, that's a factor based on objectives, you know,  
13 maximizing your - your investment, maximizing the value  
14 of your investment. And that's a matter of objective.

15 Q Is there any way to pinpoint when that change will occur?

16 A No, not precisely. ]

17 Q And then it says you expected to realize your economic  
18 expectation by either selling the property or  
19 redeveloping it for commercial purposes. Is that a  
20 correct statement?

21 A Yeah.

22 [ Q Okay. You previously, I believe, testified that you have  
23 made no plans whatsoever to specifically redevelop the  
24 property for commercial purposes.

25 A Correct. ]

WILLIAM SCHMICKER - By Mr. Myers

1 Q And you've never considered selling the property; is that  
2 right?

3 A Correct.)

4 Q On paragraph 4, there's a discussion of some other uses  
5 that are allowed under the mobile home park zoning  
6 ordinance. And I want to direct your attention down to  
7 line 24. See a statement there that says, "A church or a  
8 cemetery is hardly a viable economic use"?

9 A Okay. I agree with that.

10 Q What has led you to that conclusion?

11 A Well, churches typically like to have you - someone  
12 donate them their land. They don't want to pay market  
13 value for their land.

14 Q Okay.

15 A And a cemetery, you know, quite frankly I've never done  
16 the - never done the math on a cemetery to see whether it  
17 looked like a viable use. But my gut instinct tells me  
18 that it doesn't, and especially in a location like - such  
19 as --

20 Q So that's based on your gut instinct, not any analysis of  
21 the economics of a cemetery?

22 A Correct.

23 Q Do you go to church?

24 A Do I go to church?

25 Q Yes.

WILLIAM SCHMICKER - By Mr. Myers

1 A Is that relevant?

2 Q I'm trying to figure out what your experience is with  
3 churches.

4 A Well, we bought a piece of property off of a church  
5 recently that we developed a self-storage project on and  
6 it had been given to them. That's how I know that.

7 Q Are you familiar with what has been called a megachurch?  
8 Ever heard that term?

9 A No.

10 Q Familiar with an individual by the name of Robert  
11 Schuller and the Crystal Cathedral?

12 A I think I've heard of Robert Schuller. But I'm not . . .

13 Q Do you think that his use of a church would be  
14 economically viable?

15 A I have no idea.

16 Q Okay. Let's see.

17 A If he wants to pay me 26 million for the property though,  
18 we'll make a deal.

19 Q Let me ask you this: Have you done any analysis to  
20 pencil out whether any of the conditional uses that are  
21 allowed in the mobile home park zoning would be  
22 economically viable?

23 A I've not done any calculations to determine whether or  
24 not they are. But, you know, I mean my experience in the  
25 business tells me that you don't see these kinds of uses,